
Central Valley Regional Water Quality Control Board

31 July 2020

In the Matter of

TENTATIVE CEASE AND DESIST ORDER R5-2020-XXXX

Setton Pistachio of Terra Bella, Inc.

Terra Bella Pistachio Facility,

Tulare County

13 August 2020 Public Meeting

**TO ALL PARTIES VIA EMAIL
(SEE ADDRESSEE LIST)**

**TRANSMITTAL OF STIPULATION FOR ADOPTION OF PROPOSED
CEASE AND DESIST ORDER R5-2020-XXXX**

On 30 July 2020, the Prosecution Team and Discharger executed a stipulation under which the Discharger consents to the Central Valley Water Board's adoption of a revised version of Tentative Cease and Desist Order R5-2020-XXXX (Tentative Order). The stipulated revisions to the Tentative Order consist of the following:

- An added Finding 68 noting that the Discharger “disagrees with many of the facts stated [in Findings 1-67]...,” “makes no admission as to the[ir] accuracy ...,” and expressly reserves its right in any future proceeding to contest any such facts”;
- Extended deadlines for submittals per Sections B.2, B.3, and C; and
- Modified language in Section B.2, allowing the Discharger to implement other Treatment/Storage Pond improvements in lieu of an expanded aeration system.

The Stipulation for Entry of Cease and Desist Order R5-2020-XXXX (Stipulation) and revised Tentative Order (collectively, Stipulated Order) are attached hereto for review by the Advisory Team and Designated Party Terra Bella Voice for Change, as well as any other interested parties.

The Designated Party is not a party to the Stipulation, though Designated Party representatives and counsel were actively consulted by the Prosecution Team as part of the negotiation process. It is the Prosecution Team's understanding that the Designated Party supports entry of the Stipulated Order. Accordingly, the Prosecution Team hereby

KARL E. LONGLEY ScD, P.E., CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

requests that the Stipulated Order be substituted for the Tentative Order previously circulated for public comment.

Although the Discharger has agreed to support entry of the Stipulated Order (see Stipulation, § III.5), the Tentative Order nominally remains a contested item per the Advisory Team's letter ruling dated 24 July 2020. Absent any opposition to adoption of the Stipulated Order, the Prosecution Team will be prepared to make a brief presentation to the Central Valley Water Board, providing members with a non-adversarial review of the background for the proposed action. No witness testimony will be required prior to the adoption of the Stipulated Order, provided that the parties do not contest the adoption of the Stipulated Order. However, in the event that adoption of the Stipulated Order is contested, the Prosecution Team will be prepared to present its full case-in-chief to the Central Valley Water Board in support of adoption of the Tentative Order.

The Prosecution Team will be able to answer questions regarding the Stipulation and Stipulated Order at the upcoming Pre-Hearing Conference (via Zoom) with all Designated Parties, which is currently scheduled for Monday, 3 August 2020 at 11 am.

David A. Lancaster

Attorney,
State Water Resources Control Board,
Office of Chief Counsel

Attorney for Prosecution Team

Attachments

- (1) Stipulation for Entry of Cease and Desist Order R5-2020-XXXX
- (2) Stipulated Cease and Desist Order R5-2020-XXXX

cc: Scott Hatton, Supervising WRC Engineer, Central Valley Water Board, Fresno
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Nayamin Martinez, MPH, Director, Central California Environmental Justice
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